

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

ROMEO WARD,

Appellant,

v.

CASE NO. 1D04-3465

STATE OF FLORIDA,

Appellee.

Opinion filed January 19, 2005.

An appeal from Circuit Court for Duval County.
Michael R. Weatherby, Judge.

Romeo Ward, Pro Se.

Charles J. Crist, Jr., Attorney General, and Phillip W. Edwards, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges an order by which the lower court denied a petition for a writ of mandamus. In his petition below the appellant sought to compel the lower court to comply with the mandate which issued in connection with this court's

opinion in Ward v. State, 667 So. 2d 231 (Fla. 1st DCA 1995), wherein we directed that the judgment and sentence for the appellant's second degree murder conviction be corrected to show that the appellant was not adjudicated as a habitual offender for that offense. The attachments to the present order denying mandamus indicate that the lower court complied with this court's mandate shortly after it was issued, and that judgment and sentence were thereafter entered without a habitual offender designation for the second degree murder. The appellant's petition for a writ of mandamus was therefore properly denied.

In seeking mandamus the appellant referred to documents from the Department of Corrections which appear to still maintain a habitual offender designation for the second degree murder. But this does not negate the lower court's compliance with our mandate, and the proper avenue of recourse would appear to be for the appellant to pursue the institutional grievance process.

The appealed order is affirmed.

ALLEN, VAN NORTWICK and PADOVANO, JJ., CONCUR.